

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DAMON APPLEWHITE,

Plaintiff,

v.

Case No. 4:17-cv-11132

District Judge Linda V. Parker

Magistrate Judge Anthony P. Patti

FCA US LLC,

Defendant.

**ORDER GRANTING IN PART AND DENYING IN PART PLAINTIFF'S
FOURTH MOTION TO COMPEL DISCOVERY (DE 59)**

This matter is before the Court for consideration of Plaintiff's fourth motion to compel discovery (DE 59), Defendant's response (DE 64), and the parties' joint list of unresolved issues (DE 68). Judge Parker referred this motion to me for hearing and determination. (DE 62.)

On January 14, 2019, the date set for hearing, attorneys Darcie R. Brault and Deborah L. Brouwer appeared in my courtroom. Having considered the motion papers and listened to the oral argument from counsel, and for the reasons stated on the record and consistent with the agreement of the parties at the hearing, which are incorporated herein by reference, Plaintiff's fourth motion to compel (DE 59), as narrowed by the January 11, 2019 joint list of unresolved issues (DE 68), is

GRANTED IN PART AND DENIED IN PART as follows:

Defendant shall respond to Plaintiff's Amended Third Request for Production of Documents, Request No. 4 and produce, on or before **January 28, 2019**, any and all online training modules regarding discrimination, the Americans with Disabilities Act, and disability accommodations that were given to Terry Wyka, or which could have been given to Mr. Wyka at his supervisory level, from 2015 to present.

Finally, I decline to award fees or costs to either side. Pursuant to Federal Rule of Civil Procedure 37, if a motion to compel is granted in part and denied in part, the Court may apportion reasonable expenses for the motion. Here, both sides' positions were substantially justified and required rulings from the Court. As such, an award of costs in this matter would neither be appropriate, nor just.

IT IS SO ORDERED.

Dated: January 14, 2019

s/*Anthony P. Patti*

Anthony P. Patti
UNITED STATES MAGISTRATE JUDGE

Certificate of Service

I hereby certify that a copy of the foregoing document was sent to parties of record on January 14, 2019, electronically and/or by U.S. Mail.

s/Michael Williams

Case Manager for the
Honorable Anthony P. Patti

